

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint Application of GTE Corporation ("GTE") and Bell Atlantic Corporation ("Bell Atlantic") to Transfer Control of GTE's California Utility Subsidiaries to Bell Atlantic, Which Will Occur Indirectly as a Result of GTE's Merger With Bell Atlantic.

Application 98-12-005
(Filed December 2, 1998)

OPINION MODIFYING DECISION 01-09-045

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OPINION MODIFYING DECISION 01-09-045

Today's decision modifies Decision (D.) 01-09-045, which resolved requests for awards of intervenor compensation filed by The Utility Reform Network (TURN), The Greenlining Institute (GL), Latino Issues Forum (LIF)¹, and Public Advocates, Inc. (PA) for substantial contributions to D.00-03-021. D.01-09-045 awarded TURN \$146,113.66, GL/LIF \$159,414.76, and PA \$167,844.20. Through inadvertence, D.01-09-045 did not reflect that comments were received on the Administrative Law Judge's (ALJ) Draft Decision. After reviewing the comments on the Draft Decision and further review of the record in this proceeding, we make the following modifications to D.01-09-045:

- The award to GL/LIF is increased to total \$276,173.06, an incremental award of \$116,758.30, as a result of modifications to the findings regarding duplication;
- The award to PA is increased to total \$267,585.21, an incremental award of \$100,014.01, as a result of modifications to the findings regarding duplication; and
- Consistent with D.02-05-011, we utilize the hourly rates adopted in D.02-05-011 for 1998, and later years for advocates representing GL/LIF.

1. Background

This proceeding reviewed the joint application of GTE Corporation (GTE) and Bell Atlantic Corporation (Bell Atlantic)² for approval to transfer GTE's California utility subsidiaries to Bell Atlantic, as a result of the merger of GTE

¹ GL and LIF jointly filed a Request for Compensation. Hereinafter they are referred to collectively as GL/LIF.

² GTE and Bell Atlantic are hereinafter jointly referred to as "Applicants" or "Verizon," the name of the merged entity.

with Bell Atlantic. D.00-03-021 approved the application with limited conditions and clarifications. The conditions and clarifications relate to the total amount of benefits allocated to ratepayers, distribution of those benefits, the funding of the Community Collaborative Agreement (CCA), preparation of service quality monitoring reports, and sharing of state level accounting cost information. The CCA ultimately adopted looked very different than the Community Collaborative originally proposed by Applicants. We adopted D.00-03-021 following 13 days of evidentiary hearings during which 146 exhibits were received, as well as opening and reply briefs, and comments on the proposed decision (PD) of the ALJ.

TURN, GL/LIF³, and PA⁴ all filed timely Notices of Intent (NOI) to claim intervenor compensation. Following issuance of D.00-03-021, TURN, GL/LIF, and PA each filed a Request For Compensation (Request). GL/LIF filed a subsequent Errata to Request (Errata).

No opposition to TURN's Request was filed. However, Applicants filed a Joint Response (Joint Response) to the Requests of GL/LIF and PA. Applicants agree that the participation of these intervenors merits compensation, but they challenge the proposed hourly rates for attorney services. A Response to Request (Response) was filed by PA addressing the issue of duplication of effort between PA and GL/LIF. A Motion For Leave to Late-File Reply and Reply

³ Greenlining Institute members at the time the NOI was filed included 33 organizations throughout the state.

⁴ Public Advocates appeared on behalf of National Council of La Raza, Southern Christian Leadership Conference, Filipinos for Affirmative Action, Filipino Civil Rights Advocates, Korean Youth and Community Center, California Rural Indian Health Board, Association of Mexican American Educators, and California Association for Asian-Pacific Bilingual Education.

(Reply) were filed by GL/LIF, in which the issue of duplication of effort is addressed.

D.01-09-045 resolved the requests for compensation in this proceeding and awarded compensation to TURN (\$146,113.66), GL/LIF (\$159,414.76), and PA (\$167,844.20).⁵ However, through inadvertence, D.01-09-045 did not reflect that comments were received on the Administrative Law Judge's (ALJ) Draft Decision. Because of this error, we have reviewed the findings in D.01-09-045 on our own motion, based on the record in this proceeding, the comments filed on the ALJ's Draft Decision that became D.01-09-045, and subsequent decisions requiring us to revisit certain findings in D.01-09-045.⁶ We do not reconsider the rulings made in D.01-09-045 regarding procedural matters and the finding of significant financial hardship for GL/LIF.

2. Requirements for Awards of Compensation

Intervenors who seek compensation for their contributions in Commission proceedings must file requests for compensation pursuant to Pub. Util. Code §§ 1801-1812.⁷ Section 1804(a) requires an intervenor to file an NOI to claim compensation within prescribed time periods. The NOI must present information regarding the nature and extent of the customer's planned participation and an itemized estimate of compensation that the customer expects to request.⁸ The NOI may also request a finding of eligibility.

⁵ GTE and Bell Atlantic have already paid the awards adopted in D.01-09-045.

⁶ For example, D.02-05-011 directed that the hourly rates adopted in D.01-09-045 be modified as appropriate to utilize the hourly rates adopted in D.02-05-011 for 1998, and later years.

⁷ All statutory citations are to the Pub. Util. Code.

⁸ To be eligible for compensation, an intervenor must be a "customer", as defined by §1802(b). In today's decision, "customer" and "intervenor" are used interchangeably.

Other code sections address requests for compensation filed after a Commission decision is issued. Section 1804(c) requires an intervenor requesting compensation to provide “a detailed description of services and expenditures and a description of the customer’s substantial contribution to the hearing or proceeding.” Section 1802(h) states that “substantial contribution” means that,

“in the judgment of the commission, the customer’s presentation has substantially assisted the commission in the making of its order or decision because the order or decision has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer. Where the customer’s participation has resulted in a substantial contribution, even if the decision adopts that customer’s contention or recommendations only in part, the commission may award the customer compensation for all reasonable advocate’s fees, reasonable expert fees, and other reasonable costs incurred by the customer in preparing or presenting that contention or recommendation.”

Section 1804(e) requires the Commission to issue a decision that determines whether or not the customer has made a substantial contribution and what amount of compensation to award. The level of compensation must take into account the market rate paid to people with comparable training and experience who offer similar services, consistent with § 1806.

3. Substantial Contribution to Resolution of Issues

Pursuant to § 1802(h), a party may make a substantial contribution to a decision in one of several ways. It may offer a factual or legal contention upon which the Commission relied in making a decision, or it may advance a specific policy or procedural recommendation that the ALJ or Commission adopted. A substantial contribution includes evidence or argument that supports part of the

decision even if the Commission does not adopt a party's position in total.⁹ Where a party has participated in settlement negotiations and endorses a settlement of some or all issues, the Commission uses its judgment and the discretion conferred by the Legislature to assess requests for intervenor compensation.¹⁰

3.1 TURN

After reviewing the record, comments, and D.01-09-045, we make no modifications to our finding with respect to TURN's substantial contribution to D.00-03-021. TURN's interests and contributions were distinct from the broader interests represented by the Office of Ratepayer Advocates (ORA), and differently focused than the interests represented by GL/LIF and PA.

3.2 GL/LIF

The contributions of GL/LIF pertain to the CCA. In their Request, GL/LIF list the activities in which they engaged to demonstrate the contributions made to the decision. They participated in negotiations with Applicants, educated and mobilized local community groups to urge Commission approval of the CCA, and conducted a survey of ratepayer preferences to determine if ratepayers preferred refunds or the establishment of the CCA. During hearings GL/LIF participated on the CCA issue through cross-examination and the presentation of witnesses. During the decision-making phase, they provided comments and reply comments. Lastly, they argue that they met and worked with other signatories to the CCA. Applicants state in their Response that GL/LIF "unquestionably made substantial contributions to the Commission's decision....,"

⁹ See D.89-03-063.

¹⁰ See D.98-04-059, *mimeo.*, at 41.

citing to the efforts of GL/LIF in negotiating the CCA and advocating its adoption.

We find that GL/LIF made substantial contributions to D.00-03-021 with respect to the CCA. GL/LIF presented two witnesses to testify on behalf of the CCA; no other party did so. However, advocacy for the CCA was not unique to GL/LIF. We discuss the issue of duplication below.

Certain activities for which GL/LIF claim compensation (for example, administrative time and communicating with legislators) are not eligible for compensation, consistent with past decisions. These activities are further discussed in the “Hours Claimed” section.

3.3 Public Advocates

The participation of PA focused on the issue of the CCA. PA points out that D.00-03-021 adopted the CCA, and that PA is one of the parties advocating its adoption. PA’s participation included negotiations with Applicants, attendance at community meetings, communication with lawmakers, participation at hearings, and filing of comments. In their Response, Applicants conclude that PA made substantial contributions to the Commission's decision to approve the merger with adoption of the CCA.

We find that PA's participation resulted in a substantial contribution to D.00-03-021 with respect to the CCA, but like GL/LIF, advocacy for the CCA was not unique. We discuss the issue of duplication below. In addition, certain activities for which PA claims compensation (for example, communicating with legislators) are not eligible for compensation consistent with past decisions. These activities are further discussed in the “Hours Claimed” section.

3.4 Duplication of Effort

Greenlining Institute's bylaws authorize it to represent the "interests of low income communities, minorities and residential ratepayers." Latino Issues Forum's bylaws authorize it to represent the interests of "low-income communities, Latinos and residential ratepayers." The organizations represented by PA state they represent "the extraordinary diversity of low-income, minority, and limited-English-speaking households across California's poor, Latino, Asian/Pacific Islander, and African-American communities throughout the urban and rural regions across the state, speaking the multitude of California's common languages." (NOI, p. 1.)

Without the participation of either GL/LIF or PA, these positions would have been underrepresented in this proceeding but because of the similarities of their interests, the question arises about whether their efforts results in duplication. Clearly, these entities have similar interests, but that does not necessarily imply that their efforts were duplicative.

It is our intent to encourage a broad range of participation in our proceedings. We defer to the judgment of participants as to whether parties with different constituencies are best served by jointly representing a set of shared interests. The issue that we must consider remains, under Section 1801.3(f), whether duplication of effort resulted. Where multiple parties represent overlapping interests, they do so at risk of receiving reduced compensation if they cannot demonstrate that their participation was complementary or presented unique facts or arguments in support of the same outcome. Determining whether duplication of effort occurred is a factual inquiry that requires us to review the pleadings made by each intervenor to determine whether their efforts made unique contributions to the record, even though they

advocated for the same outcome- adoption of the CCA. This is consistent with our interest in promoting participation of groups with interests that might be broadly aligned around common proposals or positions but who nevertheless make distinct contributions to a proceeding.¹¹

Both GL/LIF and PA argue that no duplication of effort occurred between them, and that no hours should be excluded. Early in the proceeding, PA and GL/LIF's efforts were general in nature, reviewing the application, identifying issues of interest to their constituencies, and beginning discovery. It was not until protests to the application were filed, or perhaps event until the ALJ ruled on the NOIs, that it became clear that they had similar interests in the proceeding. Thus, although some duplication of effort likely occurred during that time period, it was not avoidable, so PA and GL/LIF's time through April 1, 1999 should be fully compensated.

On June 30, 1999, both GL/LIF and PA filed a "Statement of Position" as directed by the ALJ. Testimony was also served by both parties on June 7, 1999. Between April 1 and the June 30, 1999 filing, GL/LIF and PA timesheets generally reflect the following type of work:

- Preparation of testimony/exhibits (GL/LIF, PA)
- Conferring regarding settlement, developing settlement terms (GL/LIF, PA)
- Reviewing data responses/discovery (GL/LIF, PA)
- Conduct merger survey (GL/LIF)
- Communicating with community coalitions (PA)

¹¹ "The Commission should encourage the presentation of multiple points of view, even on the same issues, provided that the presentations are not redundant." (D.98-04-059, 79 CPUC2d 626, Ordering Paragraph 1 at 677, Appendix A, Principle 5 at 679.)

GL/LIF also filed a motion to compel discovery during this time, which resulted in a May 4, 1999 Ruling that was generally favorable towards GL/LIF's motion.

Both GL/LIF and PA served testimony, although the PA testimony was subsequently withdrawn and the witness did not testify. Copies of the CCA were attached to the testimony of GL/LIF witnesses Gamboa and Gonzales (Exhibits 360 and 364), as an exhibit by PA (Exhibit 356), and as an attachment to the Applicant's Rebuttal Testimony (Exhibit 37). Because the CCA was developed through off the record discussions between applicants and the CCA signatories prior to testimony being filed, it is difficult to determine the exact contributions each party brought to the process that resulted in the CCA. For example, we know, based on the NOIs of PA and GL/LIF that they had similar issues that they were concerned with. However, because these issues were not further developed through the preparation of testimony because they instead negotiated the CCA with Applicants, the record makes it difficult to determine whether a particular party advocated a position that was unique or duplicative or whose positions might have led to establishment of specific elements of the CCA. In PA's Statement of Position, PA indicates that the issues it raised in its prehearing conference statement regarding benefits of the merger under §854 have been met for the low-income communities, communities of color, and limited-English-speaking communities it represents. GL/LIF's Statement of Position indicates their strong support for the merger because of the firm commitments contained in the CCA for increasing universal service penetration, increased philanthropic commitment benefiting underserved communities, and a commitment to increasing management, workforce, and vendor diversity. GL/LIF then go on the

describe why their previously identified concerns about the merger's impact on low-income and limited-English-speaking groups have been satisfied.

Both PA and GL/LIF participated in hearings in July 1999. GL/LIF sponsored testimony and presented witnesses for cross-examination. Both PA and GL/LIF cross-examined several witnesses. The cross examination was generally not duplicative of the other parties questioning. For example, GL/LIF focused its questioning on quality of service and the linkage of customer satisfaction to management compensation, workforce diversity, and prevention of marketing abuse. PA focused its cross examination on how the merged entity was planning to serve PA's communities of interest, affordability of services to low-income consumers, new job growth, and corporate practices of Applicants in serving limited-English-speaking communities.

Briefs by PA and GL/LIF also touch on many of the same subjects that they focused on in hearings. They present very similar arguments about how the merger, with the addition of the CCA, results in ratepayer and societal benefits and why the sharing approach proposed by the CCA is appropriate. Although there is some duplication in some arguments, taken as a whole, the briefs are complementary. For example, PA's brief is much more focused on the legal issues raised by the merger, and how the facts developed in the record support a legal conclusion that the merger should go forward. GL/LIF's brief is more focused on the policy rationale for the CCA and how the CCA improves the position of typically underserved communities.

Overall, based on our review of the record, we find that the participation of PA and GL/LIF, while supporting the same outcome, was for the most part complementary rather than duplicative. Therefore, we find that the time spent by PA and GL/LIF should not be reduced for duplication in this case. Some

adjustment to the hours claimed is necessary to remove certain activities that are not eligible for compensation, consistent with past decisions, but these adjustments are not related to duplication of effort. These activities and adjustments are further discussed in the “Hours Claimed” sections.

3.5 Overall Benefits of Participation

In D.98-04-059, Finding of Fact 42, we indicated that compensation for a customer’s participation should be in proportion to the benefit ratepayers receive as a result of that participation. We recognize that putting a dollar value on the benefits accruing to ratepayers as the result of a customer’s substantial contribution may be difficult. However, an assessment of whether the requested compensation is in proportion to the benefits achieved helps ensure that ratepayers receive value from compensated intervention, and that only reasonable costs are compensated. (Id., page 73.)

We similarly conclude that the awards of compensation to GL/LIF and PA are reasonable, with adjustments to hours, hourly rates, and costs as noted below. The participation of both parties played a role in our decision to adopt the CCA with a statewide goal of achieving 98 percent subscribership in underserved communities, and bringing the “information superhighway” to these communities. The CCA creates a \$24 million community technology trust fund to pursue these goals. The benefits to ratepayers of the CCA cannot be precisely quantified, but because so many ratepayers may benefit over the long-term we conclude that the benefit to ratepayers is in proportion to the amount of the awards to GL/LIF and PA.

4. Reasonableness of Requested Compensation by TURN

TURN requested \$146,113.66. D.01-09-45 awarded TURN the amount requested. Based on our review of the record, we make no change to the award to TURN as set forth in D.01-09-045.

5. Reasonableness of Requested Compensation by GL/LIF

GL/LIF requests \$323,919.22 as follows:¹²

Advocates' Fees

Robert Gnaizda		
188.75 hours @ \$375/hr.	=	\$ 70,781.25
Susan E. Brown		
458.15 hours @ \$275/hr.	=	\$125,991.25
Chris Witteman		
327.3 hours @ \$250/hr.	=	\$ 81,825.00
Subtotal	=	\$278,597.50

Consultant/ Expert Fees

John Gamboa		
64.85 hours @ \$250/hr.	=	\$ 16,212.50
Viola Gonzalez		
34.7 hours @ \$250/hr.	=	\$ 8,675.00
Subtotal	=	\$ 24,887.50

Paralegal Fees

Jose Hernandez		
132.15 hours @ \$105/hr.	=	\$ 13,875.75
Subtotal	=	\$ 13,875.75

Other Costs

Postage, photocopies, deliveries, supplies	=	\$ 3,075.30
Postage and copying (see Errata)	=	\$ 642.72
Transportation, phone, parking,		

¹² This number is the combination of \$323,276.50 in the Request and an additional \$642.72 in the Errata.

mileage, airfare, etc.	=	\$ 2,840.40
Subtotal	=	\$ 6,558.42
Total	=	\$323,919.17

5.1 Hours Claimed

GL/LIF provided detailed timesheets for all attorneys and experts for whom compensation is requested. Although GL/LIF did not subtotal the hours claimed by year, we were able to perform that calculation ourselves. While doing so, our review of GL/LIF's timesheets identified discrepancies between the hours claimed in the request for compensation and those documented in timesheets. In particular, it became clear that GL/LIF did not request time associated with travel or preparation of intervenor compensation related documents at half the hourly rate and in some cases included time associated with administrative activities or legislative efforts which are not subject to compensation.¹³ We summarize the hours set forth in the time sheets below:

Brown	Professional	Travel/Compensation	Legislative
1998	1.25	-	-
1999	387.65	10.8	.25
2000	54.2	18.5	-
Witteman	Professional	Travel/Compensation	Paralegal
1998	3.0	-	-
1999	281.6	14.7	16.4
2000	20.3	5.9	-
Gnaizda	Professional	Travel/Compensation	

¹³ D.96-06-029 indicates that time spent lobbying public officials should not be charged to ratepayers. See also, D.02-11-024. D.98-11-049 established that professional fees assume that overhead costs are included in those hourly rates and that time spent by professionals on administrative matters should not be separately compensated.

	1998	7.3	-	
	1999	151.75	4.4	
	2000	25.3	-	
Gamboa	Professional	Travel/Compensation		
	1998	2.9	-	
	1999	54.45	.4	
	2000	6.1	-	
Gonzales	Professional	Travel/Compensation		
	1999	32.45	.5	
	2000	1.5	.25	
Hernandez	Professional	Travel/Compensation	Admin	
	1999	83.65	6.25	34.75
	2000	-	7.5	-

Upon review of the materials submitted by GL/LIF, we conclude that the hours claimed for specific activities appear generally reasonable. With the exception of the hours associated with legislative contacts and administrative time, we will compensate GL/LIF for all hours claimed.

5.2 Hourly Rates

GL/LIF seeks compensation for attorney Gnaizda at an hourly rate of \$375. The most recent adopted rates for Gnaizda are \$290 for 1998, \$300 for 1999, and \$310 for 2000 (see D.02-05-011 and D.02-07-030). We will use these rates for work performed in 1999 and 2000 in this proceeding.

A rate of \$275 per hour is claimed for attorney Brown for all hours. This rate was previously adopted in D.02-06-038 for 1999 and 2000. We will utilize the rate adopted in D.02-05-011 (\$260/hour) for work in 1998.

When its request was filed, this Commission had not previously adopted a rate for Witteman. An hourly rate of \$250 per hour is requested for all hours. Based upon a review of his experience and qualifications, we conclude that a rate of \$200 per hour is appropriate for this work performed in 1998 based upon his relative lack of experience before the Commission, and the fact that he was working with two other attorneys who are compensated at senior attorney rates. For 1999 hours, we will increase Witteman's hourly rate to \$225, and for 2000 we will award the hourly rate requested, \$250. As requested, we will compensate Witteman at \$75/hour for paralegal tasks he performed.

An hourly rate of \$250 is claimed for GL staff member Gamboa. We previously set an hourly rate for Gamboa of \$135 for 1998. (See D.02-05-011.) Based on the documentation submitted, there is no convincing reason to increase his rate at this time, however, we will adopt a modest annual increase to reflect inflation for 1999 and 2000, resulting in hourly rates of \$140 and \$145 for 1999 and 2000 respectively. GL/LIF also seeks a \$250 per hour rate for staff member Gonzales, Executive Director of LIF. We have not previously adopted an hourly rate for Gonzales for 1999 and 2000. We find it appropriate to utilize the same rate in those years as applied to Gamboa for work on this proceeding.

An hourly rate of \$105 is sought for paralegal Hernandez. GL/LIF does not direct us to previous hourly rates for Hernandez. We will utilize \$75 per hour, the paralegal rate we adopted in D.00-04-011. We note that Witteman prepared separate bills for paralegal work he performed, and \$75 is the hourly rate he seeks for paralegal work for GL/LIF. Although we normally compensate intervenors for time spent preparing the intervenor compensation request at half the professional hourly rate, when an advocate is compensated at a lower hourly rate than mid level or senior attorneys, we have made it a practice to compensate

that time at the full hourly rate and do so for Hernandez's time spent on compensation related matters in 2000 (all hours in 2000). Travel time will be compensated at half the hourly rate.

5.3 Other Costs

GL/LIF request \$6,558.42 for miscellaneous expenses. The request is problematic in several ways. In the Errata we note the amount claimed is \$642.72, but supporting documentation indicates \$572.59. We cannot determine the cause of the discrepancy and will pay the lower amount. While the dollar difference is small, discrepancies of this kind compel us to question the accuracy of all numbers, which results in wasted time spent verifying all numbers.

More troubling is the inclusion of expenses for which there is no explanation. We cannot compensate for expenses where there is no explanation provided. We deduct the following costs from the award:

- Page 14 of Witteman expense sheet - 10/21/99 airfare for Stewart Kwoh and Giao Bui to attend meeting - \$641.50. No explanation is provided regarding this expense;
- travel expenses for Brown, Gonzales and Hernandez on 4/28, 5/3, 5/10, and 8/16/99 totaling \$117.11. We have compared the dates on which these expenses are billed and find no corresponding work activities to indicate a nexus to this case. We disallowed travel expenses to GL/LIF on this same basis in D.00-04-003;
- \$452.00 for airfare for Barbara Perkins and Ronaldo Babiera for meeting 10/22/99, and \$339.50 for airfare and taxi for meeting 10/22/99. We can locate no explanation in the request regarding the identity of these individuals, a breakdown of what these expenses cover, and why these expenses should be paid by ratepayers in this proceeding.

The disallowed expenses total \$1,550.11.

With the exception of the expenses itemized above, the costs claimed appear reasonable and will be compensated in full.

5.4 Award

We award \$276,173.06 to GL/LIF for contributions to D.00-03-021. The award is calculated as follows:

Professional Hours		Rate	Hours	Total
Gnaizda	1998	\$ 290.00	7.30	\$ 2,117.00
Brown	1998	\$ 260.00	1.25	\$ 325.00
Witteman	1998	\$ 200.00	3.00	\$ 600.00
Gamboa	1998	\$ 135.00	2.90	\$ 391.50
Gnaizda	1999	\$ 300.00	151.55	\$ 45,465.00
Brown	1999	\$ 275.00	372.90	\$ 102,547.50
Witteman	1999	\$ 225.00	281.70	\$ 63,382.50
Gonzales	1999	\$ 140.00	32.35	\$ 4,529.00
Gamboa	1999	\$ 140.00	53.75	\$ 7,525.00
Hernandez	1999	\$ 75.00	83.65	\$ 6,273.75
Gnaizda	2000	\$ 310.00	25.30	\$ 7,843.00
Brown	2000	\$ 275.00	54.20	\$ 14,905.00
Witteman	2000	\$ 250.00	20.30	\$ 5,075.00
Gonzales	2000	\$ 145.00	1.50	\$ 217.50
Gamboa	2000	\$ 145.00	6.10	\$ 884.50
Paralegal Hours				
Witteman	1999	\$ 75.00	16.40	\$ 1,230.00
Travel/Compensation Hours				
Gnaizda	1999	\$ 150.00	4.40	\$ 660.00
Brown	1999	\$ 137.50	10.80	\$ 1,485.00
Witteman	1999	\$ 112.50	14.70	\$ 1,653.75
Gonzales	1999	\$ 70.00	0.50	\$ 35.00
Gamboa	1999	\$ 70.00	0.40	\$ 28.00
Hernandez	1999	\$ 37.50	6.25	\$ 234.38
Brown	2000	\$ 137.50	18.25	\$ 2,509.38
Witteman	2000	\$ 125.00	5.90	\$ 737.50
Gonzales	2000	\$ 72.50	0.25	\$ 18.13
Hernandez	2000	\$ 75.00	7.50	\$ 562.50
Subtotal				\$ 271,234.88
Other Costs				\$ 4,938.18
Total				\$ 276,173.06

6. Reasonableness of Requested Compensation by PA

PA requests \$325,649.24 as follows:

Advocates' Fees

Mark Savage		
770.69 hours @ \$300/hr.	=	\$231,207.00
Maria Andrade		
239.30 hours @ \$225/hr.	=	\$ 53,842.50
John Affeldt		
9.20 hours @ \$285/hr.	=	\$ 2,622.00
Subtotal	=	\$287,671.50

Consultant's Fees

Thomas Hargadon		
40 hours @ \$250/hr.	=	\$ 10,000.00
Subtotal	=	\$ 10,000.00

Paralegal Fees

Jennifer Cynn		
81 hours @ \$110/hr.	=	\$ 8,910.00
Rebecca Yee		
66 hours @ \$110/hr.	=	\$ 7,260.00
Subtotal	=	\$ 16,170.00

Other Costs

Airfare, copying, messenger service, phone, etc.	=	\$ 11,807.74
Subtotal	=	\$ 11,807.74
Total	=	\$325,649.24

6.1 Hours Claimed

PA provided detailed timesheets for all attorneys and experts for whom compensation is requested. Although PA did not subtotal the hours claimed by year in its timesheets, it did do so in the tables where it allocated time by issue.

Our review of PA's timesheets identified discrepancies between the hours claimed in the request for compensation and those documented in timesheets. In particular, it is clear that PA did not request time associated with travel or preparation of intervenor compensation related documents at half the requested hourly rate and in some cases included time associated with meetings with legislators in the hours claimed.¹⁴ We summarize the hours set forth in the time sheets below:

Savage	Professional	Travel/Compensation	Legislative
1998	20.52	-	-
1999	562.78	34.21	15.35 ¹⁵
2000	106.24	31.50	-
Andrade	Professional	Travel/Compensation	
1999	179.9	42.0	
2000	15.5	1.9	
Affeldt	Professional	Travel/Compensation	
1999	7.4	-	
2000	0.9	0.9	
Hargadon	Professional	Travel/Compensation	
1998	4.1	-	
1999	35.9	-	
Cynn	Professional	Travel/Compensation	
1999	81.0	-	
Yee	Professional	Travel/Compensation	

¹⁴ D.96-06-029 indicates that time spent lobbying public officials should not be charged to ratepayers. See also, D.02-11-024.

¹⁵ This total includes travel time to meetings with legislators which is not compensable.

1999 66.0 -

With the exception of the hours that are compensated at 1/2 the hourly rate, we find that the hours claimed for specific activities appear generally reasonable.

6.2 Hourly Rates

PA proposed an hourly rate of \$300 for attorney Savage. We previously set an hourly rate of \$250 for work in 1998 (D.00-02-044) and \$275 for work in 1999 and 2000 (D.00-05-033) for Savage. We will use those rates here.

We have not previously set an hourly rate for attorney Andrade, who has been an attorney since 1995, and joined PA in 1998. Based upon her experience and qualifications, we set an hourly rate of \$160 for 1999, and \$170 for 2000.

The requested hourly rate for attorney Affeldt is \$285. The previously adopted hourly rate for attorney Affeldt is \$175 for work performed in 1997. (See D.00-02-044). Affeldt's qualifications are similar to those of TURN's Hawiger, for whom we adopted a rate of \$185/hour in 2000. Given that Affeldt has been practicing for slightly longer than Hawiger, we will adopt a rate of \$185 for work performed in this proceeding in 1999 and 2000.

The hourly rate sought for law clerks Cynn and Yee is \$110 per hour. We will use a \$75 per hour rate, which is the same rate awarded to GL/LIF for its paralegal. We find no justification for granting PA's clerks a higher hourly rate.

We have reviewed the request for an hourly rate of \$250 for expert Hargadon. The Commission has previously utilized this rate for work performed by Hargadon. (See D.96-06-029 and D.96-12-029.) We adopt the requested rate for this proceeding.

6.3 Other Costs

PA requests a total of \$11,807.74 for miscellaneous expenses. Again, the request is cryptic. We cannot compensate for expenses for which no explanation is provided. In Exhibit 1 travel expenses are claimed for individuals and no explanation is provided regarding the identity of these individuals, what the expense amounts cover, and why ratepayers should pay these expenses in this proceeding. We disallow the following unjustified travel expenses:

- Barbara O'Connor (\$242.31);
- Lisa Navarrete (\$884.41);
- Robert Arroyo (\$326.50);
- Jacquelyn Brand (\$218.50);
- Jim Crouch (\$210.19).

We are very concerned about the inclusion of travel expenses for Barbara O'Connor and Jacquelyn Brand. We have reviewed the signature pages to the CCA (which is Attachment C to D.00-03-021). We find that O'Connor signed the CCA as the founder of Alliance for Public Technology, which represented 16 organizations. We find that Brand signed the CCA as Coordinator of Universal Services Alliance, representing 18 organizations. Neither Alliance for Public Technology nor Universal Service Alliance have qualified for or filed for intervenor compensation in this proceeding. It appears that PA inappropriately seeks to reimburse these groups for expenses of participation by means of the intervenor compensation program. This possibility is very disturbing, as it would be an abuse of the intervenor compensation program. We put PA on notice that if we verify inappropriate billing of costs in the future, we will

consider imposing sanctions under Rule 1 of the Rules of Practice and Procedure.¹⁶

The remainder of PA's claimed expenses appear generally reasonable and will be compensated in full.

6.4 Award

We award \$267,585.21 to PA for its contributions to D.00-03-021. The award is calculated as follows:

Professional Hours		Rate	Hours	Total
Savage	1998	\$ 250.00	20.52	\$ 5,130.00
Hargadon	1998	\$ 250.00	4.10	\$ 1,025.00
Savage	1999	\$ 275.00	562.87	\$ 154,789.25
Andrade	1999	\$ 160.00	179.90	\$ 28,784.00
Affeldt	1999	\$ 185.00	7.50	\$ 1,387.50
Hargadon	1999	\$ 250.00	35.90	\$ 8,975.00
Savage	2000	\$ 275.00	105.72	\$ 29,073.00
Andrade	2000	\$ 170.00	42.00	\$ 7,140.00
Affeldt	2000	\$ 185.00	0.90	\$ 166.50
Cynn	1999	\$ 75.00	81.00	\$ 6,075.00
Yee	1999	\$ 75.00	66.00	\$ 4,950.00
Travel/Compensation Hours				
Savage	1999	\$ 137.50	34.21	\$ 4,703.88
Andrade	1999	\$ 80.00	15.50	\$ 1,240.00
Savage	2000	\$ 137.50	31.50	\$ 4,331.25
Andrade	2000	\$ 85.00	1.90	\$ 161.50
Subtotal				\$ 257,931.88
Other Costs				\$ 9,926.33
Total				\$ 267,858.21

¹⁶ Savage's timesheets reflect time consulting with Brand and O'Connor throughout the course of the proceeding. The timekeeping entries appear consistent with the type of consultations Savage made with individuals or organizations represented by PA. Because consultation with other parties is necessarily part of an intervenor's participation, we do not disallow this time, however, we note it for the record because PA also claimed expenses for these individuals despite the fact that they were not represented by PA.

Consistent with previous Commission decisions, we will order that interest be paid on the incremental award amounts (calculated at the three-month commercial paper rate) to each intervenor, commencing the 75th day after GL/LIF and PA filed their compensation requests and continuing until full payment is made.

As in all intervenor compensation decisions, we put the intervenors on notice that the Commission's staff may audit intervenors' records related to this award. Thus, intervenors must make and retain adequate accounting and other documentation to support their claims for intervenor compensation. The records should identify specific issues for which compensation is requested, the actual time spent by each employee, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation is claimed.

7. Comments on Draft Decision

Although not required, the draft decision on these compensation requests was mailed to the parties in accordance with Pub. Util. Code Section 311(g) (1) and Rule 77.7 of the Rules of Practice and Procedure. Following comments, the Commission issued D.01-09-045, which resolved the three requests for compensation. That decision failed to reflect that comments had been filed taking issue with the reductions for duplication that were contained in the ALJ's draft decision. Because of this failure, we have reviewed the record, comments on the draft decision by PA, GL/LIF, and TURN and reply comments by PA, TURN and Verizon and made significant revisions to the draft originally presented as it relates to the awards for PA and GL/LIF. No changes were required as it relates to the award to TURN in D.01-09-045 thus this decision only modifies D.01-09-045 as it relates to the awards to PA and GL/LIF.

8. Assignment of Proceeding

Susan Kennedy is the Assigned Commissioner and ALJ Mattson is the assigned ALJ in this proceeding.

Findings of Fact

1. No modifications to D.01-09-045 are necessary with respect to TURN's request for compensation.
2. GL/LIF and PA made timely requests for compensation for contributions to D.00-03-021.
3. GL/LIF and PA made substantial contributions to D.00-03-021.
4. With certain adjustments to the hours to remove administrative and legislative time, the hours claimed by PA and GL/LIF are reasonable.
5. The benefits to customers of the participation of GL/LIF and PA outweigh the costs of funding their participation.
6. We utilize the previously adopted rates for Brown and Gnaizda for 1998, 1999 and 2000. For Witteman, rates of \$200, \$225, and \$250 for 1998, 1999 and 2000 are adopted. The previously adopted rate of \$135 for 1998 is adopted for Gamboa. Rates of \$140 and \$145 for 1999 and 2000 are adopted for Gamboa and Gonzales. A paralegal rate of \$75 per hour is reasonable and consistent with D.00-04-011.
7. The hourly rate claimed for Hargadon is reasonable in this proceeding. The hourly rates previously adopted for Savage are reasonable and we will use them here. An hourly rate of \$185 is reasonable for Affeldt in 1999 and 2000, and is consistent with the rate in D.00-02-044. Based upon her experience and qualifications the following hourly rates are reasonable for Andrade: 1998 -\$150; 1999- \$160; 2000 - \$170. A paralegal rate of \$75 per hour is consistent with D.00-04-011.

8. The miscellaneous other costs claimed by GL/LIF are reasonable and fully compensable, with the following exceptions. The following costs are disallowed because they are not adequately explained and documented, and do not appear reasonably incurred in this proceeding: expenses for airfare and travel totaling \$1,550.11; a discrepancy of \$70.13 in the Errata.

9. The miscellaneous other costs claimed by PA are reasonable and fully compensable, with the following exceptions. The following costs are disallowed because they are not adequately explained and documented, and do not appear reasonably incurred in this proceeding: expenses for airfare and travel totaling \$1,881.91.

10. O'Connor and Brand, for whom PA seeks reimbursement of travel expenses, signed the CCA on behalf of Alliance for Public Technology and Universal Services Alliance. Neither organization has been found eligible for nor sought intervenor compensation in this proceeding. It appears that PA inappropriately seeks compensation for their expenses through the intervenor compensation program. The travel costs for O'Connor and Brand should be disallowed.

Conclusions of Law

1. GL/LIF and PA have fulfilled the requirements of §§ 1801-1812 of the Pub. Util. Code, which govern awards of intervenor compensation.
2. GL/LIF should be awarded \$276,173.06 for its contributions to D.00-03-021.
3. PA should be awarded \$267,585.21 for its contributions to D.00-03-021.
4. This decision modifies D.01-09-045 with respect to the awards for GL/LIF and PA only.
5. This order should be effective today so that intervenors may be compensated without unnecessary delay.

O R D E R

IT IS ORDERED that:

1. D.01-09-045 is modified to award Greenlining Institute and Latino Issues Forum (GL/LIF) \$276,173.06, incremental compensation of \$116,758.30, for its substantial contributions to D.00-03-021.
2. D.01-09-045 is modified to award Public Advocates (PA) \$267,585.21, incremental compensation of \$100,014.01, for its substantial contributions to D.00-03-021.
3. Verizon Communications Inc., the successor entity to GTE Corporation and Bell Atlantic Corporation, shall pay GL/LIF and PA any unpaid amounts associated with contribution to D.00-03-021 within 30 days of the effective date of this order. Verizon shall also pay to GL/LIF and PA interest on the award of each at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release G.13, or H.15, as appropriate, beginning July 19, 2000, and continuing until full payment is made.
4. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.